

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

FRANK BETZ ASSOCIATES, INC.,)	
)	
Plaintiff,)	
)	
V.)	No.: 3:12-cv-00152
)	
BUILDERS MUTUAL INSURANCE)	Judge Brown
COMPANY,)	
)	JURY DEMAND
Defendant.		

DEFENDANT BUILDERS MUTUAL INSURANCE COMPANY'S MOTION TO
DISMISS PLAINTIFF'S CLAIM FOR ATTORNEYS' FEES

Comes now the Defendant, Builders Mutual Insurance Company (“**BMI**”), by and through counsel pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, and moves this Court to dismiss Plaintiff Frank Betz Associates, Inc.’s (“**Betz**”) claim for attorney’s fees incurred by Betz in this declaratory judgment action. In support of this Motion, BMI states as follows:

1. Betz claims that BMI is obligated as a matter of law to pay all costs including attorneys’ fees incurred by Betz in this action;
2. Other than the Copyright Act, which does not apply to this case, Betz failed to allege a specific contractual or statutory provision providing for attorney's fees as part of the prevailing party's damages; and
3. Accordingly, the claim for attorneys’ fees incurred by Betz in this action against BMI should be dismissed, as a matter of law.

BMI also relies upon its Memorandum of Law in support of this Motion, filed contemporaneously herewith.

WHEREFORE, as the Complaint fails to state a claim for which relief can be granted for the recovery of attorneys' fees incurred by Betz in this declaratory judgment action against BMI, BMI moves this Honorable Court to dismiss Betz' claim for the recovery of attorneys' fees incurred in this action. BMI also requests any and all such other and further relief to which it may be entitled in this instance.

s/ David A. Draper

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CERTIFICATE OF SERVICE

I hereby certify that on this the 22nd day of August, 2012, a copy of the foregoing was filed electronically via this Court's ECF system. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

s/ David A. Draper

David Draper (BPR #016067)

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